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**From:**

**Sent:** Monday, January 25, 2010 10:21 AM

**To:**

**Cc:**

**Subject:** Joint Committee Review of Superseding Return

-- I am an attorney in the NO who handles many of the JCT cases. Your analysis is absolutely correct.

Whether a refund is reportable under IRC 6405 to the JCT turns on whether the taxpayer has made any remittances to the Service, and the Service has made assessments to the taxpayer's account. Once the Service has made an assessment, these amounts are now treated as payments and can only be recovered by claiming a refund.

Amounts claimed as an overpayment on a taxpayer's return are not subject to section 6405 because the taxpayer's self-assessment is irrelevant for purposes of the Service determining the final tax liability. Sec. 301.6402-4 makes JCT reporting inapplicable in this situation.

If you have any further questions, please advise.